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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

20 SENORX, INC., } CASE NO. C 07-01075 SC
21 vs. } PLAINTIFF'S REPORT
22 COUDERT BROTHERS, LLP, and } PURSUANT TO FEDERAL RULES
23 DOES 1 - 500, } OF CIVIL PROCEDURE 26(f)
24 Defendants. }
Judge: Honorable Samuel
Conti
Dept. Crtr. 1
Date: June 8, 2007
Time: 10:00 am
Action Filed: October 27, 2004
Trial Date: Vacated

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21 PLAINTIFF FILES THE FOLLOWING REPORT PURSUANT TO FEDERAL
RULES OF CIVIL PROCEDURE 26(f)

22 Parties have met and conferred regarding the nature and basis of claims and
23 defenses, the possibilities for a prompt settlement, discussion of timing of
24 disclosures pursuant to Rule 26 (a) and a proposed discovery plan.

25 The court should be aware of the following Rule 26(f) issues:

26 1. Timing of Rule 26(a) disclosures

27 Parties have agreed that it is premature for disclosures to be made under Rule

1 26 (a). Plaintiff will be guided by the court as to the timing of exchange of witnesses,
2 document description, damages and insurance pursuant to Rule 26(a). It is plaintiff's
3 position that it is premature to exchange expert witness information and reports at
4 this time.

5 2. Parameters of Discovery

6 Discovery has been conducted in this case and is almost concluded with only
7 a few remaining depositions of percipient witnesses/ to be taken. Due to the stay on
8 certain discovery in the State Court, it has never been established exactly how the \$3
9 million and / or \$5 million self insured retentions apply to the insurance coverage available
10 to Coudert Brothers. Discovery is required on this issue, which could result in plaintiff
11 limiting its claims to Coudert's insurance coverage. Discovery should be concluded
12 within the next six months.

13 3. Electronically Stored Information

14 Plaintiff does not believe at present that there are issues related to disclosure
15 or discovery of electronically stored information, however, this may be an issue as
16 to internal Coudert data bases related to patent filing deadlines.

17 4. Claims of Privilege re Trial Preparation Material

18 Privilege has been claimed with respect to work performed for SenoRx by
19 other counsel apart from Coudert Brothers LLP.

20 5. Limitations on Discovery

21 Plaintiff requests that the Court allow limited discovery regarding exactly how
22 the \$3 million and / or \$5 million self insurance retentions apply to the insurance
23 coverage available to Coudert Brothers. Plaintiff's motion to compel insurance
24 information was stayed in the state court leaving unanswered questions regarding
25 whether the insured retention is \$3 million or is \$5 million; will the insurance be paid
26 up to the applicable policy limits after deducting the self insured retention or must the
27 self insured retention have been paid before the remainder of the insurance policy
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1 limits are paid; and what insurance policy limits apply to this lawsuit. If these issues
2 are resolved, plaintiff may limit its claim against Coudert Brothers to the available
3 insurance coverage. This case could then be removed from the United States
4 Bankruptcy Court. The resources of the Bankruptcy Court and the United States
5 District Court would no longer be burdened with this litigation.

6 Plaintiff requests the court limit discovery to documents and issues related to
7 SenoRx' representation by Coudert and rule that all documents prepared by prior
8 and subsequent law firms are privileged.

6. Additional Orders Requested

None at this time.

11 | Dated: June 1, 207

Respectfully submitted

LAW OFFICES OF MICHAEL J. PIUZE

By:

GERALDINE WEISS
Attorney for Plaintiffs